

To: Honorable Rick Jones, Chairman  
Senate Judiciary Committee

Testimony  
Senate Bill 418

The only verbage change proposed by SB 418 is the addition of "(D) NOTHING IN THIS ACT SHALL BE CONSTRUED TO CREATE A PRIVATE CAUSE OF ACTION AGAINST THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE," within Voter Initiative 1, 2008, the Michigan Medical Marihuana Act. (MMMA).

The reason for this type of amendment is principally to permit local governmental units to override the MMMA. While an Attorney General could still bring suits against such localities, Attorney General Schuette has made clear his position on medical marihuana: he opposes its use. Thus, we know he cannot be relied upon to file a suit of this kind to protect our citizens. This amendment is, therefore, nothing more than a backdoor attempt to largely gut the MMMA, and to thwart the will of 63% of the voters in Michigan. Cannabis Patients United opposes this bill and urges you to do the same.

Clearly, the intent of this provision is to prevent anyone from attempting to use the judiciary to enforce the protections for patients under MMMA, except for the Attorney General, meaning, of course, that violations of the Act by the State or municipalities will, in reality, not be subject to redress. It would mean that private citizens could not sue local municipalities where their governments pass ordinances that are in direct conflict with the Act. This would include suits of a non-monetary nature, that would allow citizens to benefit from the Michigan Medical Marihuana Act, and be free of local restrictions that violate the State law; and suits including monetary damages, for losses a plaintiff would be entitled to pursue in virtually any other situation. Is Senator Jones' bill an attempt to remove rights of sick patients who are following the Act?

The issue is, why should affected citizens be denied the opportunity to litigate their rights under the State Act when a local or state governmental unit or department passes a law or ordinance that contradicts the Act?

We are aware that the bill's primary sponsor believes that the Act is "unclear". Senator Jones opts to let units of government run roughshod over the Act, rather than to allow private lawsuits to permit the courts to interpret the law and clarify it. The changes to this law within Senator Jones' bill would leave the only chance for redress with the Attorney General filing a lawsuit in support of this law, which seems entirely unlikely.

Thus, a local ordinance that says no one in a municipality can grow or use medical marihuana, could not be challenged, on preemption grounds, by private citizens. Similarly, if the Michigan Department of Community Health (or DLEG it's successor in administering the Act) decided to stop issuing cards to patients and caregivers, a private individual could not sue to stop that practice. This bill begs the obvious question: what other state laws do you intend to subjugate to local ordinances?

CPU urges you to vote no on this bill. CPU asks you to join us in protecting citizens rights.

Thank you,

Cannabis Patients United